

# OPEN MEETING ITEM

COMMISSIONERS  
KRISTIN K. MAYES – Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP



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ORIGINAL

ARIZONA CORPORATION COMMISSION

2010 JAN 28 A 8:42

DATE: JANUARY 28, 2010

DOCKET NO.: W-01384A-07-0314

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Marc E. Stern. The recommendation has been filed in the form of an Order on:

DELLS WATER COMPANY, INC.  
(EXTENSION OF TIME DEADLINE CONTAINED  
IN DECISION NO. 70102)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

FEBRUARY 8, 2010

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

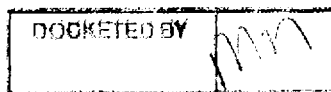
MARCH 2, 2010 and MARCH 3, 2010

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission

DOCKETED

JAN 28 2010



ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

1200 WEST WASHINGTON STREET; PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET; TUCSON, ARIZONA 85701-1347

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This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail [SABernal@azcc.gov](mailto:SABernal@azcc.gov)

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 KRISTIN K. MAYES, Chairman  
4 GARY PIERCE  
5 PAUL NEWMAN  
6 SANDRA D. KENNEDY  
7 BOB STUMP

8 IN THE MATTER OF THE APPLICATION  
9 OF THE DELLS WATER COMPANY, INC.  
10 FOR A PERMANENT RATE INCREASE.

DOCKET NO. W-01384A-07-0314

DECISION NO. \_\_\_\_\_

**ORDER EXTENDING TIME**  
**DEADLINE CONTAINED IN**  
**DECISION NO. 70102**

11 Open Meeting  
12 March 2 and 3, 2010  
13 Phoenix, Arizona

14 **BY THE COMMISSION:**

15 \* \* \* \* \*

16 Having considered the entire record herein and being fully advised in the premises, the  
17 Commission finds, concludes, and orders that:

18 **FINDINGS OF FACT**

19 1. On December 21, 2007, the Arizona Corporation Commission ("Commission") issued  
20 Decision No. 70102 which approved the application by the Dells Water Company, Inc. ("Company"  
21 or "Applicant") for a permanent rate increase.

22 2. The Commission's Decision approving the Company's application for a rate increase  
23 contained the following condition:

- 24 • that the Company file, by December 31, 2008, with the Commission's Docket Control  
25 as a compliance item in this docket, a copy of the Arizona Department of  
26 Environmental Quality ("AEDQ") Certificate of Approval of Construction ("AOC")  
27 for utility plant to increase storage capacity.<sup>1</sup>

28 <sup>1</sup> Since the Commission found in Decision No. 70102 that the Company had inadequate storage to serve its existing customers, the Commission ordered the Company to add 20,000 gallons of additional water storage facilities. To verify that the additional storage was added, the Company was ordered to file the ADEQ AOC referred to hereinabove.

1           3.       On January 25, 2008, following the issuance of Decision No. 70102 in this docket, the  
2 Company filed an application in Docket No. W-01384A-08-0048 requesting authorization to incur  
3 long-term debt for a \$30,000 loan from the Water Infrastructure Authority ("WIFA") to fund the  
4 construction of two new 10,000 gallon storage tanks. After the storage facilities are constructed,  
5 ADEQ is to approve the construction and issue the AOC for the storage tanks.

6           4.       While the financing application was pending, on January 28, 2009, the Company filed  
7 a request for an extension of time, until November 1, 2009, in order to file a copy of the ADEQ AOC.  
8 According to the Company, the delay in securing the AOC for the additional storage was due to the  
9 processing of the Company's financing application.

10          5.       On January 15, 2009, the Commission's Utilities Division ("Staff") filed its report in  
11 Docket No. W-01384A-08-0048 recommending approval of the Company's financing application  
12 which would provide funds for the construction of the Company's planned new storage tanks. The  
13 Staff Report concerning the financing application also recommended that the Company be granted an  
14 extension until December 31, 2009, in this docket to file a copy of the ADEQ AOC for the storage  
15 facilities.

16          6.       On March 20, 2009, Staff filed a memorandum in this docket concerning the ADEQ  
17 AOC compliance item required by Decision No. 70102. Staff reaffirmed its previous  
18 recommendation for the Company to file a copy of the ADEQ AOC by December 31, 2009, as stated  
19 in the financing docket.

20          7.       Staff's recommendation with respect to the AOC was adopted with the Commission's  
21 approval of the financing application in Decision No. 70953 (April 7, 2009) and the Company was  
22 ordered to file by December 31, 2009, a copy of the ADEQ AOC.

23          8.       On December 11, 2009, the Company filed a request for an extension of time to file a  
24 copy of the ADEQ AOC for the additional storage facilities until May 1, 2010, in both this docket  
25 and the financing docket. The Company stated that plans for the construction of the facilities were  
26 submitted to ADEQ on August 21, 2009, and it still had not received the Approval to Construct  
27 ("ATC") from ADEQ. The Company further stated that it had only recently received notice that its  
28 application to obtain a loan from the WIFA had been approved. That loan has not yet closed and

1 without the loan the Company does not have the resources to construct the storage facility. The  
2 Company explained that the WIFA loan was expected to close before the end of 2009 and the  
3 Company would then contract with a firm to construct the storage facilities at that time.

4 9. On January 15, 2010, Staff filed a memorandum in both dockets recommending  
5 approval of an extension until June 30, 2010, in order for the Company to file a copy of the ADEQ  
6 AOC. Staff stated that it had recently contacted the Executive Director of WIFA who advised Staff  
7 that the loan had not closed as of January 8, 2010, and that recent changes related to the federal  
8 minimum wage laws must be included in the Company's construction contracts and this would delay  
9 the processing and the closing of the loan.

10 10. Subsequently, Staff contacted the Company's consultant who indicated that the  
11 Company had received the ADEQ ATC, but the effects of changes to the federal minimum wage laws  
12 could possibly increase the project's cost by 15 to 20 percent and these costs were not considered  
13 when the loan for the project was approved in Decision No. 70953. As a result of the changes to the  
14 laws, the authorized loan may be insufficient to fund the project.

15 11. The Company's consultant indicated that he has been in contact with Commission  
16 Staff concerning how to address the possible funding shortfall.

17 12. Staff is concerned with the Company's failure to meet this compliance requirement of  
18 Decision No. 70102. Because the Company has to complete the following: close on the loan;  
19 contract for the construction work; complete construction; and secure the ADEQ AOC, Staff believes  
20 the Company should either complete the project with the authorized funding of \$30,000 or if the  
21 funding is insufficient, apply for additional financing authorization.

22 13. Under the circumstances, the Company should be granted an extension of time until  
23 June 30, 2010, in which to file a copy of its ADEQ AOC as recommended by Staff.

#### 24 CONCLUSIONS OF LAW

25 1. The Company is a public service corporation within the meaning of Article XV of the  
26 Arizona Constitution and A.R.S. §§ 40-250 and 40-251.

27 2. The Commission has jurisdiction over Applicant and of the subject matter of the  
28 extension request addressed herein.

3. Staff's recommendation for the extension of time to file the Company's ADEQ AOC should be adopted.

**ORDER**

IT IS THEREFORE ORDERED that the Dells Water Company, Inc. shall be granted an extension of time until June 30, 2010, to file its ADEQ AOC for the additional storage facilities as required by Decision No. 70102.

IT IS FURTHER ORDERED that the Dells Water Company, Inc. shall be granted no further extensions in this matter, absent good cause shown.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_ day of \_\_\_\_\_, 2010.

ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

MES:db

1 SERVICE LIST FOR: THE DELLS WATER COMPANY, INC.

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